

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**JOHN KALLAND, individually and on behalf of those
individuals similarly situated,**

Plaintiff,

– against –

**LA BOTTEGA, INC., LA BOTTEGA FOODS CORP.,
LA BOTTEGA FRANCHISE, INC., LA BOTTEGA
LYNBROOK, INC., LA BOTTEGA OF ROSLYN
CORP., MARISA ARTE E. COLLEZIONE, INC.,
GUISEPPE RUTA and MARISA RUTA,**

Defendants.

Case No.: 18-CV-04502 (JS) (AYS)

**STIPULATION AND ORDER REGARDING
CONDITONAL CERTIFICATION, ISSUANCE OF
COLLECTIVE ACTION NOTICE AND
DISCLOSURE OF CONTACT INFORMATION**

Plaintiff and Defendants, by and through their undersigned counsel, hereby stipulate and agree as follow upon the following premises.

WHEREAS, Plaintiff commenced this action, bringing claims under the Fair Labor Standards Act, as a collective action, and under the New York Labor Law, as class action, in the United States District Court for the Eastern District of New York; and,

WHEREAS, Plaintiff alleges he was employed by Defendants as a “Delivery Driver” for Defendants’ business, and seeks to represent a collective and class comprised of similarity situated workers under the Fair Labor Standards Act and New York Labor Law; and,

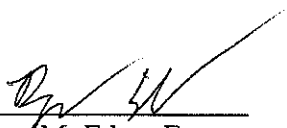
WHEREAS, instead of expending resources litigating Plaintiff’s anticipated motion for collective action conditional certification and notice pursuant to 29 U.S.C. § 216(b), the parties, without prejudice to Defendants’ rights to challenge collective action certification at a later date, have negotiated the terms of a proposed notice to be sent to members of the alleged collective (“the Notice”) and the process for disseminating the Notice;

WHEREAS, the parties have reached agreement on the scope, form and manner of distribution of the Notice in this matter, subject to the Court’s approval; and

NOW THEREFORE IT IS STIPULATED AND AGREED AS FOLLOWS:

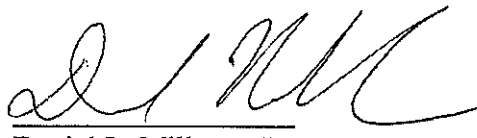
1. Within fourteen (14) business days after the Court has "So Ordered" this Stipulation, Defendants shall provide to Plaintiff's counsel the names and last known mailing addresses of all "Delivery Drivers" employed by Defendants at a restaurant in Lynbrook, Franklin Square or Garden City at any point in time from February 25, 2013 to the present ("Collective List" or putative collective members") for the purpose of mailing the Notice as set forth herein.
2. Within twenty-one (21) days after Plaintiff's receipt of the names and mailing addresses noted in Paragraph 1, Plaintiff's counsel shall mail the Notice to each individual on the Collective List. Plaintiff's counsel may re-mail notice to any putative collective member whose Notice is returned as undeliverable, with a forwarding address;
3. All names and addresses of individuals on the Collective List provided by Defendants to Plaintiff's counsel shall remain confidential pursuant to this Court's Stipulation and Order regarding Confidential Information;
4. The individuals on the Collective List shall have 60 days from the date on which the Notice is mailed (the "Opt-in Period") to return the "Consent to Join" form in the manner set forth in the Notice. Individuals whose initial Notice is returned as undeliverable and for whom a forwarding address is supplied shall have 10 additional days from the date on which a second Notice is sent to return the "Consent to Join" form to Plaintiff's counsel. Only individuals submitting a "Consent to Join" form by the deadlines set forth herein shall be eligible to join the collective action in this matter unless Defendants consent otherwise, in writing, or Plaintiffs make an application to the Court demonstrating that good cause exists for accepting any untimely submission;
5. During the sixty (60) day period which putative class members may opt-in to the lawsuit, Defendants shall post an English and translated copy of the Notice of Lawsuit in a conspicuous location.
6. Within seven (7) days of receipt of a "Consent to Join" form, Plaintiff's counsel shall electronically file such form via the Court's electronic case filing system ("ECF") on the docket in this matter.

Dated: March 1, 2019



Ryan M. Eden, Esq.
Attorneys for Plaintiff
Zabell & Collotta, P.C.
1 Corporate Dr., Suite 103
Bohemia, NY 11716
Telephone: (631) 589-7242
REden@laborlawsny.com

March 1, 2019



Daniel L. Millman, Esq.
Attorneys for Defendants
Avrutine & Associates, PLLC
575 Underhill Blvd., Suite 140
Syosset, NY 11791
Telephone: (516) 677-9400
Dmillman@optimum.net

SO ORDERED:

Hon. Anne Y. Shields
United States Magistrate Judge
Central Islip, New York
Dated: